



# KYLE BIEDERMANN

TEXAS STATE REPRESENTATIVE • DISTRICT 73

November 19, 2019

Chairman Jon Niermann  
TCEQ  
PO Box 13087  
Austin, TX 78711-3087

Chairman Niermann,

I sincerely appreciate you giving me the opportunity to provide a statement at the upcoming TCEQ hearing on the Vulcan Construction Materials air permit. Please note that Mr. Larry Bailey of my staff will reading it at the hearing.

## **State Representative Kyle Biedermann's Statement:**

Chairman Niermann and Commissioners Lindley and Janecka, thank you for giving me the opportunity to provide my thoughts on the TCEQ process for issuing an air quality permit for Vulcan Materials. I have concerns regarding the Vulcan Permit and all Aggregate Production Operation (APO) permits in Texas because I believe the TCEQ is not adequately addressing problems with the Texas aggregate industry. As the lead state agency for environmental matters, I submit that your agency can and should implement new rules affecting this industry. Your executive leadership is needed to more fully understand APO's and there actual and potential impacts on the environment and the public.

For over almost three years, I and my staff have spent considerable time to learn and become more knowledgeable of the aggregate industry in State District 73. Currently in Comal County, there are approximately 30 permitted aggregate production operations. These operations comprise roughly 5% of the surface acreage of the county and most APO's are schedule to dig for over the next 20 to 30 years. We have visited many of the APO's, talked to the Texas Aggregate and Concrete Association, advocacy groups promoting the aggregate industry, advocacy groups seeking more regulatory oversight, the public, and discussed the APO industry with the U.S. EPA and the Center for Disease Control and other states. From these discussions, four major issues exist that I believe need your immediate attention.

1. The APO registration process should first begin with the TCEQ notifying the Texas Department of Transportation (TXDOT), the Texas Water Development Board (TWDB), and the Texas Department of State Health Services (TDSHS). The TCEQ should take the lead and have each agency discuss their individual agency's perspectives of the APO registration and the cumulative impact of the local APO's on the Texas roads, the quality and availability of groundwater, and the public's health. Each agency should then provide its approval of the APO after it has reviewed the APO's permit application.
2. APO's having air quality permits do not have requirements to reclaim the quarry land after operations have been completed. What will be the final outcome of these finished open quarry mines? Other states have implemented permit standards that require the APOs to have a formal reclamation plan submitted to the state for approval. This plan outlines the beneficial use the quarry will have after the production operations are complete. I support the TCEQ requiring this type of reclamation plan for APO's.



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3. The site locations for the APO's should be more thoroughly evaluated by the APO's. For example, a number of the APO's (including the planned Vulcan Materials) are located over the Edwards Aquifer Recharge and Contributing Zones (EARZ). The EARZ is a very sensitive area that is being protected due to the possibility of contaminants polluting the Edwards Aquifer. APO's should be charged with performing a more robust geologic assessment to test and confirm that there will be very little probability the APO will negatively impact the Edwards Aquifer and also be required to implement a more complete groundwater monitoring program.

4. Comal County is one of the fastest growing counties in the state. This substantial population growth is coming into conflict with the excessive growth of the APO industry. The public are now living less than one mile from most of the APO's, and there is concern over the air quality. We know that the air quality model used by the TCEQ was not historically based on real-time ambient air quality. However, in recent months two air sensors have been relocated to new areas in Comal County. We understand that the particulate matter data from these air sensors will be used by the TCEQ to address some of the public's concern that particulate matter 2.5 can cause public health problems. However, recently collected data by a university supported group in Comal County on silica indicates that the concentrations are much higher than those identified by the APO industry. We support the TCEQ working hand-in-hand with the Texas Department of State Health Services to perform a public health assessment on the high silica concentrations being found at identified APO sites in Comal County.

The TCEQ can move forward on these initiatives and exemplify the environmental stewardship that Texans are expecting of their lead state environmental regulatory agency. The issuance of a permit to Vulcan Materials can and should be postponed. I formally request you to consider these concerns before anymore TCEQ air quality permits for APO's are issued.

Respectfully,

A handwritten signature in black ink, reading "Kyle Biedermann", is positioned below the word "Respectfully,".

Kyle Biedermann  
Texas State Representative  
House District 73

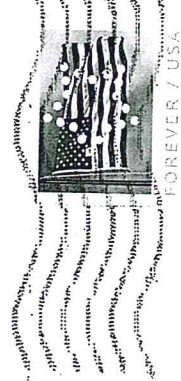




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616 W. MAIN ST.  
FREDERICKSBURG, TEXAS 78624



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TCEQ  
PO Box 13087  
Austin, TX 78711-3087

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Texas Commission on Environmental Quality  
Commissioners' Offices

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